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1 RECORD OF ORAL HEARING

2
3 UNITED STATES PATENT AND TRADEMARK OFFICE

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5
6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

9
10 Ex parte DAVID EDWARD CALDWELL, MICHAEL WHITE, and
11 TANYA KORELSKY
12

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14 Appeal 2008-0623
15 Application 09/761,604
16 Technology Center 2100
17

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19 Oral Hearing Held: April 8, 2008
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22
23 Before LANCE LEONARD BARRY, JAY P. LUCAS, CAROLYN D.
24 THOMAS, Administrative Patent Judges.
25

26 ON BEHALF OF THE APPELLANTS:

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34 The above-entitled matter came on for hearing on Tuesday, April 8,
35 2008, commencing at 9:00 a.m., at The U.S. Patent and Trademark Office,
36 600 Dulany Street, Alexandria, Virginia, before Virginia Johnson, Notary
37 Public.

1 MR. KITTREDGE: Good morning.

2 JUDGE BARRY: Good morning.

3 MS. BEAN: Calendar Number 1, Appeal Number 2008-0623, Mr.

4 Kittredge.

5 JUDGE BARRY: Thank you.

6 MS. BEAN: You're welcome.

7 JUDGE BARRY: Good morning, are you all ready to begin?

8 MR. KITTREDGE: Yes.

9 JUDGE BARRY: Okay, we'll set the timer and give you 20 minutes,
10 and we'll give you an indication at, if I recall, two minutes, one minute and
11 30 seconds, if you need it. It's helpful.

12 MR. KITTREDGE: Okay, I think it should be less, but --

13 JUDGE LUCAS: Can I assume that the lady is Dr. Tatiana
14 Korelsky?

15 DR. KORELSKY: That's correct,.

16 JUDGE LUCAS: Okay. All right then, we're on the record?

17 COURT REPORTER: Yes.

18 MR. KITTREDGE: So, our invention is called Natural Language
19 Product Comparison Guide Synthesizer. And, we thought the best thing is
20 to give you a good overview and dig out the major points. So, outlining our
21 method for a particular type of product, and we use digital cameras as the, as
22 the classic example. It could be cars. It could even be service of certain
23 types.

24 The user chooses a profile from a list, pre-established like, Soccer
25 Mom, would be a user profile for someone buying a car, or a snapshot taker
26 for someone buying a digital camera. The method that we're trying to patent

1 generates an explanatory recommendation of a particular product of the
2 chosen type with fluent text by projecting the features of these products onto
3 the chosen predefined user profile.

4 This is an example taken from our original application in 2001 of a
5 dynamically generated fluent recommendation text, as we understand it. I
6 can let you read it. Is it, is it quite visible there?

7 JUDGE THOMAS: You can read it.

8 MR. KITTREDGE: The top overall pick is the Epson Photo PC 650.
9 It has the best collection of convenience features, which is important if you
10 just want to take vacation snapshots without having to be a rocket scientist.
11 It has lower ratings in portability and image quality which are also high on
12 the list for the basic snapshot taker, but has high scores in storage and
13 connectivity. The Olympus D-220L is another top finisher. It trails behind
14 the Photo PC 650 in convenience. It comes out ahead in portability an
15 image quality as well as performance and manual controls.

16 JUDGE LUCAS: Dr. Korelsky -- Kittredge, Dr. Kittredge.

17 MR. KITTREDGE: Yes.

18 JUDGE LUCAS: I notice that snippets of this quote, to use your
19 phrase, were in the actual specification. I remember reading them in the
20 specification, but I would ask you to be careful to limit your talk to items
21 that are on the record or of record. At this, this case is a continuation?

22 MR. KITTREDGE: This is, this is the original application. I don't
23 think this is on a continuation.

24 JUDGE LUCAS: No, it isn't. So, I would appreciate that making
25 sure that what you present here is of record already. Okay?

1 MR. KITTREDGE: Yes, we've tried to do that, and much of this is
2 taking from our Reply Brief of November 12, 2006.

3 JUDGE LUCAS: Okay.

4 MR. KITTREDGE: This particular example is just verbatim from the
5 original application, and I -- the Paragraph numbers 65 and 66.

6 JUDGE LUCAS: Okay.

7 MR. KITTREDGE: So, the main claim Independent Claim Number
8 1 from our Appeal Brief which was June 24th, '06, but amended in October
9 15th. In the Claims appendix, and we've added emphasis here, a method of
10 creating automated natural language product recommendation system for
11 providing customers with a personalized recommendation of a product
12 having plurality of features; each customer being associated with a user
13 profile comprising a collection of values of features that are considered to be
14 suitable for a user of the product comprising the steps of, one, developing
15 feature text snippets for each feature.

16 The snippets being phrases to be used when describing or referring to
17 a particular product features. Two, developing user profile text snippets for
18 each user profile; the snippets being phrases to be used when describing or
19 referring to a particular user profiles. Three, providing generic phrases such
20 that combining the generic phrases and the feature text snippets and user
21 profile text snippets produces a personalized recommendation of a product
22 featuring dynamically generated fluid text that is used to convey a product
23 analysis and recommendation tailored to the user requirements and
24 preferences.

25 So, the Examiner has cited prior art. Been through a couple of rounds
26 of prior art that was this is the most recent prior art that the case the

1 Examiner, or the rebuttal the Examiner is based on. Tavor 2001, an
2 application to compare features of products in the same category using
3 natural language phrases, and Mikurah of 2004, I guess these are publication
4 dates, yes; a comprehensive application of notation with, with a notion of a
5 user profile during order management.

6 In the Examiner's view combining Tavor with Mikurah reads on our
7 application for those skilled in the art. We disagree, and our argument is
8 presented in our Appeal Brief of 6-24-06, amended on October 15, '06, and
9 our Reply Brief, which is additional arguments or additional succinct reply.
10 It's actually the easiest entry into this whole thing of November 12th, '06.

11 The Examiner's response of November 21st, '06 reads verbatim his
12 response of September 12th except for some added references, and is not
13 responsive to some identified errors in citations, etcetera. So, we conclude
14 that our Reply Brief was not taken into consideration by the Examiner.

15 So, let's look at Tavor a bit. What did Tavor do? It's basically
16 product comparison, but without the use of a user profile. Although using
17 simple natural language phrases, Tavor simply compares products. In
18 contrast, we recommend products; that is we compare and explain the
19 importance of the features with respect to a predefined profile chosen by the
20 use, for example, a snapshot taker for digital cameras. To achieve this, our
21 method uses user profile snippets explaining in fluid text how particular
22 product features relate to the user profile, for example, it has lower ratings
23 on portability and information age quality which are high on the list of the
24 basic snapshot taker.

25 Tavor does not have the concept of user profile, and thus, does not use
26 corresponding phrases, that is snippets. The text produced by Tavor's

1 method are product descriptions. The product has a blue color, his example,
2 or simple comparison; product A is faster of sweeter than product B.

3 Let's look at Mikurah, an individual who talks about individual user
4 profile, but it's not a predefined user profile type. Our notion of user profile
5 refers to a predefined collection of desired product feature values for a
6 certain class of customer; snapshot taker has certain desired values for a
7 product in that category of camera, digital camera that are set up according
8 to that category of user. It's not an individual user, but a class of users.

9 Mikurah's notion of user profile is very different from ours. It refers
10 to any sort of personalized data that can be collected or entered for a
11 particular customer. So, it's customer specific.

12 Another difference in Mikurah's user, user profile is dynamically
13 constructed from information collected about an individual user verses
14 where is in our method, user explicitly chooses a user profile corresponding
15 to a class of users. User makes a conscious choice. Mikurah prioritizes
16 presentation of products based upon a dynamically constructed profile of an
17 individual, and the result is not a recommendation --

18 DR. KORELSKY: (Indiscernible).

19 MR. KITTREDGE: Pardon.

20 DR. KORELSKY: Just a list of products.

21 MR. KITTREDGE: Just a list of, of products. So, our notion of
22 recommendation and explanation of how the feature values for a specific
23 product relate to the predefined user profile chosen by the customer
24 encapsulates our vision of recommendation. This explanation is designed to
25 convince a customer of the appropriateness or inappropriateness of a product
26 for him or her.

1 So, a generated natural language recommendation must change its
2 form and content according to the user profile selected by the customer, and
3 as a function of the features of a given product and the relationship between
4 these two. And, bigger is not always better. It depends on the user. So, if
5 something is bigger than something else, it may good for one class of user,
6 may be bad for another class of user. So, it --

7 JUDGE LUCAS: Dr. Kittredge?

8 MR. KITTREDGE: Yes.

9 JUDGE LUCAS: I'm sorry to interrupt, but can you presume that we
10 have read the, the references?

11 MR. KITTREDGE: Yes.

12 JUDGE LUCAS: And, we have also noted the defects in the
13 references with respect to the claims. Do you have any other points that
14 you'd like to make?

15 MR. KITTREDGE: Let me just pass then more quickly through
16 these lines and just make sure that I haven't left, left anything out because
17 this -- so the text can't simply recite the features of the product. It has to
18 explain. So, we just have two slides here which you probably are familiar
19 with then in citations that were given to us as reasons that Tavor teaches
20 testing a user profile text snippets in Paragraphs 57 and 59, and we search in
21 vain for any notion of user profile in the, or of user profile snippets, or of
22 testing snippets.

23 And, here is just Paragraph 57. I won't try to read it, but I assume you
24 have all that.

25 JUDGE LUCAS: Yes.

1 MR. KITTREDGE: And, likewise in Mikurah, it teaches, according
2 to the Examiner, a dynamically generated fluent text, but none of the
3 citations that we --

4 JUDGE LUCAS: Mikurah teaches a lot.

5 MR. KITTREDGE: Three hundred, yes --

6 JUDGE LUCAS: Is there anything in here --

7 MR. KITTREDGE: Kitchen sink --

8 JUDGE LUCAS: -- that you found relevant?

9 MR. KITTREDGE: Well, we did some searches, searched on terms -
10 -

11 DR. KORELSKY: We search, we search user profiles.

12 JUDGE LUCAS: Yeah.

13 MR. KITTREDGE: So, there is a notion of profile, and there's the,
14 the fact that, that, that determines the order of presentation of, of suggested
15 products, I guess.

16 DR. KORELSKY: But, it's superficial.

17 MR. KITTREDGE: But, it's superficial notion of -- I mean for our
18 purposes it's quite different.

19 JUDGE LUCAS: So, let's assume that the Court appreciates the
20 weaknesses in the two references.

21 MR. KITTREDGE: So, the bottom line, and this can be our last
22 slide, neither in Tavor nor in the Mikurah, nor in their combination, is there
23 any notion of predefined user profile with associated user profile text
24 snippets. Such a profile and associated snippets are necessary for the
25 construction of explanatory recommendation texts which no art prior to ours
26 achieves. Tavor's method produces comparisons, not recommendations.

1 Mikurah's method produces lists of products prioritized according to a
2 dynamically constructed individual user profile. Neither method, nor their
3 combination produces an explanatory recommendation text as claimed in
4 our, in our application.

5 JUDGE LUCAS: Thank you for coming.

6 MR. KITTREDGE: Thank you. No questions, then.

7 JUDGE LUCAS: Sorry?

8 MR. KITTREDGE: No questions or anything? We're finished.
9 Thank you.

10 JUDGE LUCAS: All right, we're off the record.

11 (Whereupon, the proceedings concluded at 9:12 a.m. on April 8,
12 2008).